

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

BLK BRANDS LLC, a New Jersey  
Limited Liability Company,  
  
Plaintiff, Counter-  
Defendants and Third-  
Party Defendants,  
  
v.  
  
BLACKWATER INNOVATION CORP., a  
Canadian Corporation, et al.,  
  
Defendants, Counter-  
Claimants and Third-  
Party Plaintiffs.

NO. CV 11-06378-GW (SSx)

**MEMORANDUM AND ORDER RE: PARTIES'**  
**STIPULATED PROTECTIVE ORDER**

The Court has received and considered the parties' "Joint Proposed Protective Order" (the "Protective Order"). The Court is unable to adopt the Protective Order as stipulated to by the parties for the following reasons:

First, a protective order must be narrowly tailored and cannot be overbroad. Therefore, the documents, information, items or materials that are subject to the protective order shall be described in a meaningful and specific fashion (for example, "personnel records," "medical records," or "tax returns," etc.). Here, the parties define

1 confidential information as "information contained or disclosed in any  
2 materials, regardless of how generated, stored or maintained, including  
3 documents, portions of documents, answers to interrogatories, responses  
4 to requests for admissions, testimony from previous trials, deposition  
5 testimony, transcripts of depositions, and trial transcripts from  
6 previous trials, including data, summaries, and compilations derived  
7 therefrom that qualify for protection under Federal Rule of Civil  
8 Procedure 26(c)." (Protective Order at 2-3, ¶ 2.2). This definition  
9 does not clearly place the parties or the Court on notice of the  
10 specific documents covered by the proposed protective order. As such,  
11 the definition is overbroad. The "CONFIDENTIAL" and "HIGHLY  
12 CONFIDENTIAL - FOR COUNSEL'S EYES ONLY" definitions are also overbroad.  
13 (Protective Order at 6, ¶ 5.4(a) and (b)). The documents subject to a  
14 protective order must be particularly defined and described. This  
15 requirement applies with even greater force to those documents subject  
16 to a "Counsel's Eyes Only" restriction, because the order would place  
17 even greater restriction on the use of such documents. Thus, it is in  
18 the parties' and the Court's interest to specifically define and  
19 describe such documents, or to omit such a restriction if it is not yet  
20 known to be necessary. The parties may submit a revised stipulated  
21 protective order, but must correct this deficiency.

22  
23 Second, the proposed Protective Order fails to include an adequate  
24 statement of good cause. Foltz v. State Farm Mut. Auto Ins. Co., 331  
25 F.3d 1122, 1130 (9th Cir. 2003) (court's protective order analysis  
26 requires examination of good cause) (citing Phillips v. Gen. Motors  
27 Corp., 307 F.3d 1206, 1210-11, 1212 (9th Cir. 2002); San Jose Mercury  
28 News, Inc. v. United States Dist. Court, 187 F.3d 1096, 1102 (9th Cir.

1 1999); Beckman Indus., Inc. v. Int'l Ins. Co., 966 F.2d 470, 476 (9th  
2 Cir. 1992).

3  
4 The Court may only enter a protective order upon a showing of good  
5 cause. Kamakana v. City and County of Honolulu, 447 F.3d 1172, 1176  
6 (9th Cir. 2006) (parties must make a "particularized showing" under Rule  
7 26(c)'s good cause showing for court to enter protective order);  
8 Phillips, 307 F.3d at 1210-11 (Rule 26(c) requires a showing of good  
9 cause for a protective order); Makar-Wellbon v. Sony Electronics, Inc.,  
10 187 F.R.D. 576, 577 (E.D. Wis. 1999) (even stipulated protective orders  
11 require good cause showing).

12  
13 In any revised stipulated protective order submitted to the Court,  
14 the parties must include a statement demonstrating good cause for entry  
15 of a protective order pertaining to the documents or information  
16 described in the order. The paragraph containing the statement of good  
17 cause should be preceded by a heading stating: "GOOD CAUSE STATEMENT."  
18 The parties shall articulate, for each document or category of documents  
19 they seek to protect, the specific prejudice or harm that will result  
20 if no protective order is entered. Foltz, 331 F.3d at 1130 (citations  
21 omitted).

22  
23 In addition, the Court will not agree to the procedure the parties  
24 propose for resolving disputes. (Protective Order at 11, ¶ 7.3).  
25 Before seeking court intervention in any discovery matter, the parties  
26 must strictly comply with the Central District's Local Rule 37,  
27 including the letter and meet and confer requirements set forth in L.R.  
28 37-1. Both parties must timely file a written joint stipulation

1 containing all issues in dispute. C.D. Cal. L.R. 37-2, 37-2.1. The  
2 form and preparation of this stipulation are expressly laid out in Local  
3 Rules 37-2.1 and 37-2.2. C.D. Cal. L.R. 37-2.1, 37-2.2. The Court will  
4 not consider the dispute unless the stipulation or a declaration from  
5 the moving party describing how the opposing party failed to cooperate  
6 in formulating the stipulation is timely filed. See C.D. Cal. L.R. 37-  
7 2.4.

8  
9 The Court advises the parties that all future discovery documents  
10 filed with the Court shall include the following in the caption:  
11 "[Discovery Document: Referred to Magistrate Judge Suzanne H. Segal]."  
12

13 Finally, the Court notes that its website contains additional  
14 guidance regarding protective orders. This information is available in  
15 Judge Segal's section of the link marked "Judges Procedures &  
16 Schedules." (See [http://www.cacd.uscourts.gov/CACD/JudgeReq.nsf/2fb08](http://www.cacd.uscourts.gov/CACD/JudgeReq.nsf/2fb080863c88ab47882567c9007fa070/0141b1bcd8ee7f8488256bbb00542959?OpenDocument)  
17 [0863c88ab47882567c9007fa070/0141b1bcd8ee7f8488256bbb00542959?OpenDocu](http://www.cacd.uscourts.gov/CACD/JudgeReq.nsf/2fb080863c88ab47882567c9007fa070/0141b1bcd8ee7f8488256bbb00542959?OpenDocument)  
18 [ment](http://www.cacd.uscourts.gov/CACD/JudgeReq.nsf/2fb080863c88ab47882567c9007fa070/0141b1bcd8ee7f8488256bbb00542959?OpenDocument)). The parties may submit a revised Stipulation and [Proposed]  
19 Protective Order for the Court's consideration.

20 IT IS SO ORDERED.  
21

22 DATED: February 17, 2012

23 /S/

24 SUZANNE H. SEGAL  
25 UNITED STATES MAGISTRATE JUDGE  
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